

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TENNESSEE RIVERKEEPER, INC.)
)
Plaintiff,)
)
v.) No. 3:23-CV-00749
) Judge Aleta A. Trauger
ARDAVAN AFRAKHTEH.,)
)
Defendant.)

NOTICE OF ADDITIONAL MATERIAL FILED PURSUANT TO FED. R. CIV. P. 12(d)

(Declaration of Ardavan Afrakhteh)

Defendant, Ardavan Afrakhteh, in accordance with the Court's May 10, 2024 Order (Doc. No. 20) files the declaration attached hereto as **Exhibit 1** in connection with the converted portions of the motion to dismiss filed by him under Fed. Civ. P. 12(b)(6).

Mr. Afrakhteh's declaration demonstrates he has never personally owned Sky Nashville and has no control over the property. The declaration further demonstrates Mr. Afrakhteh has fulfilled all necessary duties for the transfer of the NPDES Permit but cannot complete any additional action which may be required to facilitate the transfer of the Permit.

For the reasons demonstrated by Mr. Afrakhteh's declaration as well those set forth in his opening papers in support of his motion to dismiss, Tennessee Riverkeeper cannot demonstrate that Mr. Afrakhteh has created any on-going violations or has the ability to abate any alleged on-going violations. Tennessee Riverkeeper's lawsuit against Mr. Afrakhteh thus should be dismissed.

Respectfully submitted this 20th day of May, 2024.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the Notice of Additional Material Pursuant to Fed. R. Civ. P. 12(d) has been filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

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This 20th day of May, 2024.

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